




Title		Document Code No.
Overtime Pay and Compensatory Time in Lieu of Overtime Pay		PER 8-2 (AEP)
Department/Issuing Agency		Effective Date
Office of Human Resource Management		August 24, 1993
Approved  8/19/93		

1.0 SUBJECT TITLE: Overtime Pay and Compensatory Time in Lieu of Overtime Pay

1.1 EFFECTIVE DATE: August 24, 1993

1.2 TYPE OF ACTION: New.

1.3 KEY WORDS: 1) Hours of work; 2) hourly employees; 3) FLSA-exempt employees; 4) compensatory time off; 5) overtime.

2.0 PURPOSE

2.1 To provide for overtime pay and for the accrual and use of compensatory time in lieu of overtime pay in an equitable and fiscally responsible manner by employees of the Executive branch of government who are covered by the overtime pay provisions of the state's Minimum Wage Act (MWA) and the federal Fair Labor Standards Act (FLSA). Such employees are statutorily entitled to be compensated for work beyond forty (40) hours in the workweek at one and one-half times their regular hourly rate of pay. Further, they are subject to the overtime pay provisions of the Personnel Guidelines or, if represented, to the terms of the applicable collective bargaining agreement, provided that such terms are more beneficial to the employee than the minimum requirements of the FLSA or MWA.

3.0 ORGANIZATIONS AFFECTED

3.1 All Executive departments and agencies.

4.0 REFERENCES

4.1 King County Charter, Section 550 (Career Service positions).

4.2 Washington State Minimum Wage Act (RCW 49.46).

4.3 The Fair Labor Standards Act of 1938, as Amended, 29.U.S.C.201, et seq.

4.5 King County Chapter 3.12 Personnel System.

5.0 DEFINITIONS

5.1 "Overtime" means working hours in addition to those of the regular schedule.

5.2 "Compensatory time" means time off with pay granted in lieu of pay for work performed on an authorized overtime basis.

5.3 "Delayed holiday" means a day off taken in place of an official County holiday on which an employee was required to work.

5.4 "Exempt employees" means those Executive branch employees who are incumbents of positions not included in the Career Service as set forth in Section 550 of the King County Charter.

5.5 "FLSA-exempt employee" means an individual designated by the Director of the Office of Human Resource Management (OHRM) as being employed in a bona fide executive, administrative, or professional capacity, as defined by the MWA and the FLSA, and who is therefore exempt from the overtime pay requirements of the FLSA and the MWA.

5.6 "Bona fide executive, administrative, or professional capacity" means those positions determined by the Director, OHRM to satisfy both the "salary tests" and the "duties tests" of the FLSA.

5.7 "Executive branch" means that arm of government under the authority of the County Executive as defined by Title 3 of the King County Charter.

5.8 "Hourly employee" means an employee who is entitled to be paid for all actual hours that he/she is required or permitted to work at either the straight-time regular hourly rate or at time and one-half the regular hourly rate as determined by the Personnel Guidelines or, if represented, by the terms of the applicable collective bargaining agreement, provided that such terms are more generous to the employee than the minimum requirements of the FLSA or MWA.

- 5.9 "Regular hourly rate of pay" means the base hourly rate plus the hourly dollar value of any nondiscretionary premium payments that must be included in the hourly rate when calculating overtime pay for over forty (40) hours of actual work (excluding paid leave hours) in the workweek.

6.0 POLICY

- 6.1 Overtime work may be authorized by the department director or division manager where necessary to maintain or perform vital County services.
- 6.2 An hourly employee must obtain authorization to work overtime in accordance with departmental policies.
- 6.3 Managers and supervisors will take affirmative steps to ensure that overtime eligible employees are not allowed to work outside their regularly scheduled work hours (lunch period, before or after shift, etc.) without authorization and/or compensation for the additional time worked.
- 6.4 Pay for work beyond the normal work day or normal workweek shall be at the straight time hourly rate of pay until the employee has actually worked forty (40) hours in the workweek.
- 6.5 Paid time off, such as vacation leave, sick leave, bereavement leave, etc., shall not be counted as hours worked for the purpose of determining eligibility for overtime pay or compensatory time off at the rate of time and one-half.
- 6.6 An hourly employee may submit a written request in advance to accrue compensatory time off in lieu of receiving pay for overtime work.
- 6.7 Approval of a request to work overtime or to accrue compensatory time in lieu of overtime pay is at the option of the employee's supervisor or as otherwise determined by department policies.
- 6.8 Compensatory time may not be accrued without prior written request and written approval by the employee's department director or designee.
- 6.9 An hourly employee shall not be required to accept compensatory time off in lieu of overtime pay unless such an agreement has been reached with the employee prior to the performance of the overtime work.
- 6.10 FLSA-exempt employees shall not be eligible to accrue compensatory time off nor shall they receive overtime pay for additional work.

- 6.11 Compensatory time shall accrue at the same ratio as would have been used for pay purposes; that is, hour-for-hour (straight time) or the equivalent of one and one-half hours for each hour worked (time and one-half).
- 6.12 Compensatory time may not be used before it is accrued.
- 6.13 Use of compensatory time shall be requested in advance by the employee in writing.
- 6.14 Requests to use accrued compensatory time will be approved unless the employee's absence during the period requested will unduly disrupt the operations of the agency.
- 6.15 The accrued compensatory time balance for an employee shall not exceed 80 hours at any point in time; provided, however, that department directors may establish more stringent limitations on the accrual of compensatory time.
- 6.16 Compensatory time accrued should be used during the calendar year in which it is earned unless such utilization is not feasible due to the work demands of the position.
- 6.17 Employees will be paid for all accrued unused compensatory time on the final paycheck in December. If use was not feasible due to the work demands of the position, the employee may request and the department director or designee may approve the carryover of a maximum of 40 hours of accrued compensatory time. Any remaining balance will be paid on the final paycheck for December.
- 6.18 An employee required to work on a day designated as an official County holiday may take the holiday at another time agreeable to the supervisor and the employee. Holidays cannot be carried over to the next year; they must be used in the calendar year earned.
- 6.19 Upon separation from employment or upon transfer from one department/division to another, an employee shall be paid for all hours of accrued compensatory time.
- 6.20 Except at separation from employment, all pay for accrued compensatory time shall be at the employee's regular hourly rate of pay in effect at the time of payment.

- 6.21 Upon separation from employment, pay for accrued compensatory time shall be at the employee's regular hourly rate of pay in effect at the time of payment or the average regular rate received during the last three (3) years of employment, whichever is higher.
- 6.22 Employees covered by a collective bargaining agreement shall be compensated for overtime work and holidays and be eligible to accrue and use compensatory time off in the manner set forth in the union contract; provided such terms are more beneficial to the employee than the **minimum** requirements of the FLSA or MWA.
- 6.23 In the event any provision of this executive policy conflicts with an applicable provision of a collective bargaining agreement, the latter shall prevail.

7.0 PROCEDURES

7.1 Overtime/Accrual of Compensatory Time

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| Employee | 7.1.1 | Obtains authorization in accordance with department policy prior to performing any work outside the regularly scheduled work hours. |
| | 7.1.2 | Submits a written request to immediate supervisor to accrue compensatory time in lieu of overtime pay. |
| Supervisor | 7.1.3 | Reviews request and determines whether it should be approved or denied or forwards request to decision maker. |
| | 7.1.4 | Forwards written approval or denial to employee within five (5) workdays from the date of the receipt of the request. |
| | 7.1.5 | Takes steps to ensure that hourly employees do not work "off the clock," i.e., outside their regular shift without authorization and/or compensation. |

7.2 Use of Accrued Compensatory Time

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| Employee | 7.2.1 | Submits King County Absence Request form to supervisor requesting use of compensatory time. |
| Supervisor | 7.2.2 | Reviews request for use of compensatory time; approves or denies request or forwards to decision maker. |
| | 7.2.3 | Forwards written approval or denial to employee. |

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| Employee | 7.2.4 | Uses compensatory time within the calendar year earned; if unable to do so, employee may submit a written request by November 30th via his/her supervisor to the department director or designee to carry over up to 40 hours of compensatory time to the next calendar year. |
| Supervisor | 7.2.5 | Reviews employee request to carry over compensatory time; forwards request with recommendation to department director or designee. |
| Department Director | 7.2.6 | Reviews employee request to carry over compensatory time to the next calendar year; approves or denies carryover of hours; notifies employee. |

8.0 RESPONSIBILITIES

8.1 Employee is responsible for:

- 8.1.1 Requesting authorization to work overtime in accord with departmental policies.
- 8.1.2 Requesting authorization to accrue or use compensatory time in conformance with this policy and departmental procedures which implement this policy.
- 8.1.3 Requesting authorization to carry compensatory time forward to the next calendar year if it cannot be used within the calendar year earned.
- 8.1.3 Scheduling and using, prior to the end of the calendar year, any delayed holidays which are due for working on a designated County holiday.

8.2 Supervisor is responsible for:

- 8.2.1 Ensuring that hourly employees do not work overtime without authorization.
- 8.2.2 Reviewing employee requests for accrual, use, carryover, or pay for compensatory time to ensure that such comply with this policy.
- 8.2.3 Approving or denying requests to work overtime or to accrue or use compensatory time or forwarding to decision maker.

- 8.2.4 Ensuring that employees are paid for overtime work or accrue compensatory time at the appropriate straight time or time and one-half rate in accordance with this policy.
 - 8.2.5 Forwarding to department director or designee employee requests for carryover of compensatory time to next calendar year.
 - 8.2.6 Notifying employee of decisions regarding compensatory time requests.
- 8.3 Department Director is responsible for:
- 8.3.1 Ensuring that managers and supervisors receive training necessary to accurately compensate employees for overtime work.
 - 8.3.2 Approving or denying employee requests to carry compensatory time forward to the next calendar year and notifying employee of decision.
 - 8.3.3 Ensuring that accrued compensatory time not approved for carryover is paid at the employee's current regular hourly rate of pay on the final December paycheck, or is paid in accordance with this policy upon the employee's transfer to another agency or upon his/her separation from employment

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